

ARGUMENTS/REMARKS

Applicant would like to thank the examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and amended as necessary to more clearly and particularly describe and claim the subject matter which applicants regard as the invention. Specifically, applicant has amended claims 1, 6, 15 and 19-21, and added new claims 22 and 23 without adding any new matter. Applicant respectfully submits that the present application is in a condition for allowance in view of the following remarks.

Claim Objections

With regard to the objections to claims 19-21, applicant has amended those claims to recite the system features for initiating communication with the survey participant. Further, applicant has amended claim 21 to also claim the voice recognition application. Applicant respectfully requests the Examiner's approval of these amended claims.

Rejections Under 35 U.S.C. §102(b)

Claims 1 and 3 were rejected under 35 U.S.C. 102(b) as being anticipated by Raissyan *et al.* (U.S. Patent No. 5,703,935). Accordingly, claim 1 has been amended, and claim 3 is allowable for the limitations therein, and for the limitations of claim 1, from which claim 3 depends. For at least the following reasons, the examiner's rejections are respectfully traversed.

Among other claimed features, Raissyan *et al.* does not disclose or teach a survey system including "a communication device that initiates establishment of a communication channel between the system and a survey participant for presenting a question to the survey participant about a product, a service, or a product and a service with which the survey participant has experience," as claimed in amended claim 1. According to the written description of the present application, an illustrative example of the claimed communication device is an outgoing call device that dials a programmed

series of participant telephone numbers. Thus, the claimed communication device initiates the establishment of the communication channel between the system of the present invention and the survey participant.

In contrast, the caller in Raissyan *et al.*, who is not a survey participant, must initiate the establishment of the communication channel by dialing zero “0” with a keypad provided to a telephone in a well-known manner to place a collect call. *See, e.g.*, Col. 8, Lines 6-11; and Col. 10, Lines 33-35. In other words, the system in Raissyan *et al.* is only reactive to the caller initiating establishment of the communication channel, whereas the survey system of the present invention claimed in claim 1 takes the initial steps to establish the communication link between the system and the survey participant.

Further, Raissyan *et al.* also fails to disclose or teach the server for serving core item questions “developed to elicit feedback from the survey participant regarding a product, service, or product and service with which the survey participant has experience,” also as claimed in amended claim 1. As set forth in amended claim 1, the core item questions have been more clearly defined as questions developed for survey purposes, i.e., to elicit feedback from the survey participant.

Again in contrast to the present invention claimed in claim 1, the Raissyan *et al.* system merely prompts the caller to enter billing data, such as a credit card number or a telephone number to which the collect call is to be billed. *See, e.g.*, Col. 8, Lines 42-44; Col. 9, Lines 47-51. Thus, Raissyan *et al.* fails to teach a server for serving core item questions developed to elicit feedback from the survey participant about a product, service, or both a product and service with which the survey participant is experienced.

Additionally, Raissyan *et al.* also fails to teach or disclose the “database for storing survey participant answers to said core item questions and/or said drill-down questions communicated to the system via the communication channel established for presenting the question to the survey participant” claimed in amended claim 1. It is explained in the Office action that Raissyan *et al.*, at Col. 5, Lines 15-20, teaches a

database for recording caller information such as credit card information, and that this corresponds to the database recited in claim 1. However, the Raissyan *et al.* patent actually explains at Col. 5, Lines 15-20 that the system merely has access to what are referred to as a “validation databases” to confirm such things such as credit card numbers presented for use by callers. The credit card numbers are presented by callers over a communication channel to the system in Raissyan *et al.* However, Raissyan *et al.* is completely silent about whether these credit card numbers so transmitted are stored in a database provided to that system. Instead, the validation databases in Raissyan *et al.* are already in existence prior to the establishment of the communication channel, hence their use to validate credit card numbers transmitted to the Raissyan *et al.* system. The validation databases are databases maintained by banks and other creditors to be accessed by the Raissyan *et al.* system and confirm that a credit card number given by the caller over the communication channel is valid. Once the credit card number is confirmed, the charges for the collect call are charged to that credit card number and the call is placed. There is no indication in Raissyan *et al.* that the credit card numbers or any other information transmitted by the caller over the communication channel are then saved to a database, as recited in amended claim 1.

Raissyan *et al.* also fails to teach or disclose the “survey presentation unit for automatically formatting and presenting said survey participant answers as a survey result to a user” claimed in claim 1. Similar to the preceding paragraph, the Office action cites Col. 5, Lines 15-20 as teaching this feature. It is explained in the Office action that since a database stores the credit card information, it is inherent that this stored information is disclosed on a computer display. But even assuming, *in arguendo*, that the credit card information communicated to the system disclosed by Raissyan *et al.* is stored by the system in a database, which applicant submits it does not for the reasons above, the display of information is not inherently taught by storing said information in a database.

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. M.P.E.P. §2112, citing *In re Rijckaert*, 9 F.3d 1531, 1534, 28 U.S.P.Q.2d 1955, 1957 (Fed. Cir. 1993) (emphasis added); *In re Oelrich*, 666 F.2d 578, 581-82, 212 U.S.P.Q. 323, 326 (CCPA 1981). "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.'" *In re Robertson*, 169 F.3d 743, 745, 49 U.S.P.Q.2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted). "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original).

The Office action merely states the conclusion that because a database stores credit card information, it is inherent that the stored information is displayed on a computer display. However, it is clear that information stored in an electronic database is not *necessarily* displayed on a computer display, particularly when the stored information is used merely for validation and billing purposes by an automated system such as that disclosed in Raissyan *et al.* According to Raissyan *et al.*, placing a collect call generally involves having an operator establish contact with a party at either the called station 102 or at the third party station 103 to obtain authorization, or approval, for the alternative billing arrangement. Col. 3, Lines 57-64. Raissyan *et al.* goes on to explain that the "present invention carries out these and other operations without intervention by an operator..." Col. 3, Lines 64-67. This is accomplished behind the scenes via the validation gateway 122 from the LAN 121 with access to the validation databases 126. Col. 5, Lines 15-20. Since there is no operator to whom this information is to be

displayed, it is clear that formatting and displaying credit card information is not inherently taught by Raissyan *et al.*

Further yet, Raissyan *et al.* also fails to disclose or teach the server that serves drill-down questions associated with one or more of the core item questions. As mentioned in the previous paragraph, Raissyan *et al.* fails to teach the server that serves core item questions seeking feedback from the survey participant. Due to the absence of such core item questions for survey purposes from the Raissyan *et al.* patent, it follows that there can be no drill-down questions associated with those core item questions, as claimed in amended claim 1.

For at least the above reasons, Raissyan *et al.* fails to teach every limitation found in amended claim 1 as required to maintain a rejection of that claim under 35 U.S.C. §102(b). Further, since claim 3 depends from claim 1, it, along with all other claims depending there from are also not anticipated by Raissyan *et al.* for the purposes of 35 U.S.C. §102(b).

Rejections Under 35 U.S.C. §103(a)

Claims 6 and 12-21 were rejected under 35 U.S.C. 103(a) as being unpatentable over Raissyan *et al.* Claims 6 and 15 have been amended, while claims 12-21 are allowable for the limitations therein, and for the limitations of claim 1, from which they depend. For at least the following reasons, the examiner's rejections are respectfully traversed.

With regard to claim 6, among other claimed features, Raissyan *et al.* does not disclose or teach a method including the step of “initiating a process of establishing communication with a survey participant.” As discussed in detail above, an illustrative example of the claimed communication device for initiating communication with the survey participant is an outgoing call device that dials a programmed series of participant telephone numbers. Thus, the claimed communication device initiates the establishment

of the communication channel between the system of the present invention and the survey participant.

In contrast, the caller in Raissyan *et al.*, who is not a survey participant, must initiate the establishment of the communication channel by dialing zero “0” with a keypad provided to a telephone in a well-known manner to place a collect call. *See, e.g.*, Col. 8, Lines 6-11; and Col. 10, Lines 33-35. In other words, the system in Raissyan *et al.* is only reactive to the caller initiating establishment of the communication channel, whereas the survey system of the present invention claimed in claim 1 takes the initial steps to establish the communication link between the system and the survey participant.

Claim 6, as amended, also recites the step of “presenting a first core item question about a product, a service, or a product and a service with which the survey participant has experience to the survey participant and recording a response to the first core item question in a database.” As discussed above regarding the rejection of claim 1, the caller in Raissyan *et al.* is not asked survey questions about a product, a service, or a product and a service with which the survey participant has experience. Instead, Raissyan *et al.* merely prompts the caller to enter billing information to pay for the collect call to be placed.

Further, claim 6 recites the step of “automatically compiling and presenting a survey report to a user, said survey report utilizing the answers collected from said survey participant for said report”. As noted in the Office action, Raissyan *et al.* does not teach such a limitation. However, for reasons analogous to those discussed above for claim 1, it would not be obvious to one of ordinary skill in the art in view of Raissyan *et al.* to perform such a step. Raissyan *et al.* explicitly states that the system therein is automated, and thus operates without intervention by an operator. Col. 5, Lines 64-67. Accordingly, there is no operator to whom the report is to be displayed, and thus, it would not be obvious to compile such a report in the first place, as claimed in amended claim 6.

With regard to claim 15, Raissyan *et al.* fails to teach or disclose the step of contacting a survey participant. As mentioned above, Raissyan *et al.* is reactive to being contacted by the caller and never contacts the survey participant, and thus claim 15 is patentable over Raissyan *et al.* Further, once the survey participant is contacted, amended claim 15 includes the step of providing a list of core item questions about a product, a service, or a product and a service with which the survey participant has experience. Again, Raissyan *et al.* fails to teach or disclose such a claimed feature.

Claim 15 also recites the step of “one of a plurality of agents requesting that the participant participate in an automated survey.” Raissyan *et al.*, in contrast, explicitly states that the system therein performs the steps of placing a collect call automatically, without operator intervention. Col. 3, Lines 64-67. Thus, Raissyan *et al.* fails to teach or disclose an operator requesting the participant to participate in an automated survey. Additionally, in response to a negative answer to such a request, claim 15 further includes the steps of switching from an automated survey method to a manual survey method both using the same questions, and using the answers of the survey participant stored in the database for generating a survey report. Raissyan does not teach such a process, and thus claim 15 is patentable over the reference.

The Office action points to Raissyan *et al.* at Col. 6, Lines 64-67 as teaching the switch from an automated survey method to a manual survey method, but there is no teaching in the reference that “said manual survey utilizes the automated survey method except that said questions are first automatically presented to one of the agents and then provided by said one of the agents to the participant” as recited in the claim, and thus claim 15 is patentable over the reference for this reason as well.

The remaining claims are patentable over the reference at least for their dependence upon one of the independent claims discussed above.

In consideration of the foregoing analysis, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby

requested. If it is determined that the application is not in a condition for allowance, the examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. QUAL 32668.

Respectfully submitted,
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